

July 17, 2023

Douglas I. Cuthbertson
Partner
dcuthbertson@lchb.com

VIA ELECTRONIC FILING

Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007

RE: *Vela, et al. v. AMC Networks, Inc. d/b/a/ AMC+*
Case No.: 1:23-cv-02524-ALC

Your Honor:

I write on behalf of Plaintiffs in the above-captioned action pursuant to Local Civil Rule 1.6 to promptly bring to the attention of the Court another pending case against the same Defendant on the same subject matter that we believe should be related to this action. That action, *Ickes v. AMC Networks, Inc.*, No. 1:23-cv-05730-UA, was recently transferred to the Southern District of New York from the Northern District of California by Judge Illston and assigned to this court as "possibly related" to this action.

Procedural history:

On January 18, 2023, Nicholas Nunez, Andy Germuga, and Gerald McCoy filed a putative class action, *McCoy et al. v. AMC Networks, Inc.*, No. 1:23-cv-00441 (S.D.N.Y.), against AMC alleging that AMC disclosed their personally identifiable information to Meta via the Facebook Pixel in violation of the VPPA, and that AMC unlawfully retained that information in violation of New York and Minnesota state statutes.

On February 22, 2022, Plaintiff Ickes filed his putative class action in the Northern District of California. *See Ickes v. AMC Networks, Inc.*, No. 1:23-cv-05730-UA, Dkt. 1. On March 10, 2023, Ickes was assigned to Judge Illston. *See id.*, Dkt. 8.

On March 24, 2023, the *McCoy* plaintiffs voluntarily dismissed the complaint without prejudice and two of them, along with a third plaintiff, filed a new action *Vela et al. v. AMC Networks, Inc.*, No. 1:23-cv-02524 (S.D.N.Y.). The *Vela* complaint makes the same allegations and claims as the *McCoy* complaint, and the *Vela* plaintiffs filed a Related Case Statement to that effect. The *Vela* action was reassigned to this court, which had presided over the *McCoy* action.

Judge Andrew L. Carter, Jr.
July 17, 2023
Page 2

On May 1, 2023, AMC moved to compel arbitration. Plaintiffs opposed on May 15, 2023 and AMC replied on May 22, 2023. On July 6, 2023, Plaintiffs filed a notice of supplemental authority in support of their opposition.

On July 7, 2023, *Ickes v. AMC Networks, Inc.*, No. 1:23-cv-05730-UA was transferred to the Southern District of New York and assigned to this court as "possibly related" to the *Vela* action. See 7/5/2023 Docket entry.

Relatedness:

The *Ickes* action is related to the *Vela* action because both actions share the same parties and the same claims and legal issues.

Same parties:

Both *Ickes* and *Vela* are against AMC on behalf of identical federal nationwide classes of AMC subscribers alleging the same claims, namely that AMC disclosed subscribers' personally identifiable information to Meta via the Facebook Pixel in violation of the VPPA. Indeed, the two actions share the same defendant and the same proposed nationwide classes. See *Ickes v. AMC Networks, Inc.*, No. 1:23-cv-00803 (N.D. Cal. June 30, 2023), Dkt. 32 at 5-7 (Order Granting Defendant's Motion to Transfer case to the Southern District of New York). As a result of this substantial overlap, a ruling in one case would have a preclusive effect in the other. *Id.* at 6-7.

Same claims and legal issues:

Both *Ickes* and *Vela* allege that AMC disclosed subscribers' personally identifiable information to Meta via the Facebook Pixel in violation of the VPPA. AMC has moved to compel arbitration in both cases. The continued prosecution of both cases separately risks not only conflicting judgments, but a waste of judicial resources. *Id.* at 7. Additionally, both actions overlap substantially in their state law claims, as well. The gravamen of the retention claims in *Vela* and the UCL claim in *Ickes* is the same as their federal VPPA claim because all ask whether AMC unlawfully disclosed subscribers' information to Meta and retained it longer than necessary. *Id.*

Accordingly, Plaintiffs respectfully believe that this Court should find that *Ickes* and *Vela* are related because both actions assert the same claims on behalf of the same proposed classes against the same defendant.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Cuthbertson', written over a horizontal line.

Douglas I. Cuthbertson